

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 09-20582-1
Honorable Patrick J. Duggan

DAMON RICHARD,

Defendant.

**OPINION AND ORDER DENYING DEFENDANT'S MOTION
TO REDUCE HIS SENTENCE**

On May 21, 2012, this Court received a letter from Defendant Damon Richard in which he inquires whether he qualifies for a reduction in his sentence as a result of “the Crack Cocaine Law” (presumably certain amendments to the United States Sentencing Guidelines which lowered the base offense levels applicable to cocaine base (“crack”) and became effective November 1, 2011). The Court is construing Defendant’s letter as a motion to reduce his sentence. The Government filed a response to the motion on June 28, 2012. For the reasons that follow, the Court concludes that Defendant is not entitled to a sentence reduction.

On December 13, 2010, Defendant pleaded guilty to three counts: (1) conspiracy to possess with intent to distribute and to distribute controlled substances: cocaine base (crack), heroin, and marijuana; (2) possession with intent to distribute marijuana; and (3) possession of a firearm in furtherance of a drug trafficking offense. On October 26, 2011, this Court sentenced Defendant to imprisonment for a term of 240 months on Count 1, a

concurrent term of 60 months on Count 2, and a consecutive term of 60 months on Count

3. The Court calculated Defendant's sentence based on its determination that he should be held accountable for 7 kilograms of cocaine base, resulting in a base offense level of

36. The Court utilized the amended crack cocaine guideline in ascertaining Defendant's base offense level, *see* U.S.S.G. § 2D1.1(c), which had been published by the time of his sentencing. As Defendant already received the benefit of the amended crack cocaine guideline, he is not entitled to a reduction in his sentence.

Accordingly,

IT IS ORDERED, that Defendant's motion for a reduction in his sentence is

DENIED.

Date: July 13, 2012

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Damon Richard, 43845-039
FCI Three Rivers
Federal Correctional Institution
P.O. Box 4200
Three Rivers, TX 78071

AUSA Regina R. McCullough